

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIMMY QUINTIN GREEN,

Petitioner,

Criminal No. 03-80016
Civil No. 06-10488

v.

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING MOTION
TO MODIFY SENTENCE**

Before the court is Petitioner Jimmy Quintin Green's motion to modify sentence pursuant to Rule 60(b), filed August 15, 2007. The government submitted a response on August 20, 2007.

Green seeks a reduction in his sentence based upon changes to section 4A1.2(b)(1)(A) of the Sentencing Guidelines. The government opposes Green's request and contends that the court has no jurisdiction to grant his motion. Indeed, there is no procedural mechanism that allows the court to modify Green's sentence under the circumstances presented here. Rule 35(a) of the Federal Rules of Criminal Procedure allows the court to correct a sentence that "resulted from arithmetical, technical, or other clear error." Id. Rule 35(b) permits the court to reduce a sentence upon the government's motion, if the defendant provides "substantial assistance in investigating or prosecuting another person." Id. Neither subsection of Rule 35 is applicable here.

Further, this rule does not permit the court to reconsider its interpretation of the Sentencing Guidelines or 18 U.S.C. § 3553(a). See United States v. Durham, 178 F.3d 796 (6th Cir.), cert. denied, 528 U.S. 1033 (1999) ("Because the district court did not impose Durham's

sentence in error, it correctly found that it had no jurisdiction to reconsider the sentence.”).

Green does not argue that the court imposed his sentence as a result of an “arithmetical, technical, or other clear error.” Fed. R. Crim. P. 35(a). Accordingly, this court lacks jurisdiction to reconsider or reduce Green’s sentence.

Therefore, IT IS HEREBY ORDERED that Petitioner’s August 15, 2007 motion to modify sentence is DENIED.

s/John Corbett O’Meara
United States District Judge

Dated: August 31, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, August 31, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager